



Tasmania

**PREMIER**  
**MINISTER FOR STATE DEVELOPMENT**

14 AUG 2001

Mr J Cosgrove  
Commissioner  
Productivity Commission Inquiry  
National Access Regime  
PO Box 80  
BELCONNEN ACT 2616

Dear Mr Cosgrove

#### **NATIONAL ACCESS REGIME INQUIRY**

I am writing in response to the Productivity Commission's request for comments on its Position Paper on Review of the National Access Regime.

I note that the Commission is to report to the Commonwealth Government on current arrangements established by Clause 6 of the *Competition Principles Agreement* and Part IIIA of the *Trade Practices Act 1974* for regulation of access to significant infrastructure facilities, and ways of improving these arrangements, taking into account various legislative, regulatory, social and economic factors.

I also note that following a process of public consultation, the Position Paper identifies two 'tiers' of proposals that the Commission considers to be of benefit. The Commission has invited further written submissions on its proposals before finalising its recommendations to the Commonwealth Government.

I understand that the Tasmanian Government (and other interested parties) will be provided further opportunity to comment upon release of the Final Report.

The Tasmanian Government notes the Commission's detailed discussion of the potential costs of regulation, and particularly of the impact that access regulation can have on the incentives for efficient investment. The related issues of regulatory risk and market uncertainty are equally significant as my Government is facilitating arrangements for the introduction of natural gas to Tasmania and the State's proposed participation in the National Electricity Market, subject to the successful completion of Basslink.

We anticipate that access to transmission and distribution assets associated with the Natural Gas Project will be consistent with the Gas Code and the National Access Regime.

Similarly, it is anticipated that access to electricity transmission and distribution assets will be covered under the National Electricity Code.

The review of the National Access Regime is timely and any recommendations which would clarify and/or simplify the access arrangements warrant serious consideration.

Nevertheless, the Tasmanian Government would have concerns if the review resulted in wholesale revisions to the framework for the respective codes leading to significantly changed or increased sovereign and regulatory risks, either at a critical stage in the development of the Basslink or Natural Gas projects, or at some point in their economic lives.

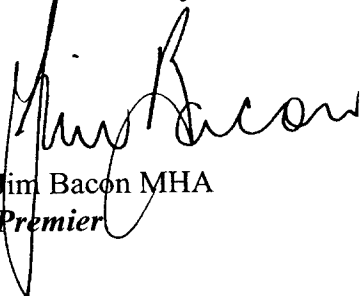
My Government would encourage the Commission to consider ways in which regulatory risk could be reduced, or eliminated, such as the application of anti-detriment principles so that when an access arrangement is reconsidered by regulatory bodies, it may be considered under the same regulatory framework as applied when the initial authorisation was given.

The Tasmanian Government would also support any changes to the National Access Regime that consider the differing commercial incentives that apply between existing infrastructure and greenfield developments. This is an important issue which is particularly relevant to Tasmania in the development of the Natural Gas Project and the ability to provide for future capacity in the development of infrastructure within a commercial private-sector project.

Another area of potential concern is that access regulatory bodies may seek to influence outcomes in markets outside their direct concern via the appeals process for access in upstream markets. For example, if it were considered necessary to grant a retail franchise to provide the commercial incentives necessary to support the development of an infrastructure project, it may be against the broader public interest should regulatory bodies not approve the access regime for the infrastructure project on the basis of a lack of competition in downstream markets. Again, this is particularly an issue for greenfields developments rather than for more mature elements of infrastructure, where downstream markets are typically well-developed.

Thank you for the opportunity to comment on the Position Paper.

Yours sincerely



Jim Bacon MHA  
*Premier*